

**CALENDAR ITEM
C26**

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PRC 8717.1

G. Asimakopoulos

**ACCEPTANCE OF A LEASE QUITCLAIM DEED AND ISSUANCE OF A GENERAL
LEASE – AGRICULTURAL AND PROTECTIVE STRUCTURE USE**

LESSEE:

John Fitch Wilcox, IV and Richard Elwood Wilcox

APPLICANT:

Marvin A. Ruport and Belinda K. Ruport, Trustees of the Ruport Family Trust,
Prepared February 4, 2000

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

1.565 acres, more or less, of filled and unfilled sovereign land located on
Assessor's Parcel Number 157-0110-029 and in the Sacramento River,
near Isleton, Sacramento County.

AUTHORIZED USE:

Use of land for the storage of agricultural equipment and the use and
maintenance of existing bank protection.

LEASE TERM:

10 years, beginning September 13, 2016.

CONSIDERATION:

Land for Storage of Agricultural Equipment: \$693 per year, with an
annual Consumer Price Index adjustment.

Bank Protection: The public use and benefit, with the State reserving the
right at any time to set a monetary rent if the Commission finds such
action to be in the State's best interests.

SPECIFIC LEASE PROVISIONS:

1. Liability insurance in an amount no less than \$1,000,000 per
occurrence.

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2. Farm equipment to be stored within the lease area shall not include any vehicles containing oil, gas, or other substances that could leak and result in the discharge of pollutants to the lease area. In addition, farm equipment shall not be placed in any environmentally protected areas, inclusive of wetlands and the banks of the Sacramento River.
3. No fueling or maintenance of vehicles or equipment will take place on the Lease Premises.
4. Lessee shall not store chemicals or fertilizers on the Lease Premises.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, and 6501.1; California Code of Regulations, title 2, section 2000, subdivision (b).

Public Trust and State's Best Interests Analysis:

On December 5, 2012, the Commission authorized a 10-year General Lease – Agricultural and Protective Structure Use to John Fitch Wilcox, IV and Richard Elwood Wilcox ([Calendar Item C04, December 5, 2012](#)). That lease will expire on September 30, 2022. On September 13, 2016, ownership of the upland parcel was deeded to the Applicant. The Applicant is now applying for a General Lease – Agricultural and Protective Structure Use. The adjacent upland parcel is privately owned.

The proposed lease includes certain provisions protecting the public use of the proposed lease area, including a limited lease term of 10 years and a non-exclusive use provision. The facilities will not significantly alter the land, the lease does not alienate the State's fee simple interest, and neither permanently impairs public rights. Upon termination of the lease, the lessee may be required to remove any improvements and restore the lease premises to their original condition. The proposed lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved. The bank protection will maintain and improve the integrity of the river channel, which will help protect the Public Trust resource of the river for recreational and navigational purposes by the public.

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Climate Change:

Climate change impacts, including sea-level rise, are not limited to the open coast and may involve increased wave activity, storm events, and flooding. The existing structures within the proposed lease area are located along the Sacramento River within a region identified as tidally-influenced. The subject facilities are vulnerable to flooding at current sea levels and at a higher risk of flood exposure given future projected scenarios of sea-level rise. The lease area is the upland area to be used for the storage of agricultural equipment and the use and maintenance of existing bank protection.

By 2030, California's coast could see up to 1 foot of sea-level rise (from year 2000 levels), 2 feet by 2050, and possibly more than 5 feet by 2100 (National Research Council 2012). This effect could increase the Sacramento River's inundation levels within the lease area. Rising sea levels can lead to increased flooding through regular inundation and larger flooding events when combined with tidal events and storm surges. These climate change and sea-level rise impacts can also affect erosion and sedimentation rates through increased wave action and scour, which in turn can lead to decreased shoreline stability and structure. In addition, as stated in *Safeguarding California* (California Natural Resources Agency 2014), climate change is projected to increase the frequency and severity of natural disasters related to flooding, drought, and storms (especially when coupled with sea-level rise).

Climate change could have a number of impacts for the region. The amount and timing of snowmelt runoff will likely change such that runoff pulses are earlier in the season and stronger precipitation events will occur over a shorter period of time. This is because warming temperatures will result in more water falling as rain rather than snow, earlier spring snowmelt, and less snowpack overall. In rivers and tidally-influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris. In addition, there will be greater amounts of runoff because less water will be trapped at higher altitudes in snowpack. Conversely, climate-change induced droughts could decrease river levels and flow for extended periods of time. Climate change and sea-level rise will further influence coastal and riverine areas by changing erosion and sedimentation rates. In rivers and tidally-influenced waterways, flooding, and storm flow will likely increase scour, decreasing bank stability and structure.

The combination of these projected conditions could potentially raise the likelihood of damage to stored equipment within the lease premises during

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the term of the lease. The upland storage area may no longer be used for storing agricultural equipment because it might be subject to more frequent inundation during the lease term. If so, the agricultural equipment would need to be moved upland of the existing location. Regular maintenance, as required by the terms of the lease, will reduce the likelihood of severe structural degradation. Pursuant to the proposed lease, the Applicant acknowledges that the lease premises and adjacent upland are located in an area that may be subject to effects of climate change, including sea-level rise.

Conclusion:

For all the reasons above, Commission staff believes the issuance of Lease No. PRC 8717.1 is consistent with the common law Public Trust Doctrine and will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the proposed lease, and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction, and Strategy 1.3 to protect, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
2. John Fitch Wilcox, IV and Richard Elwood Wilcox jointly executed a lease quitclaim deed releasing their interest in the lease to the State. Staff recommends acceptance of the lease quitclaim deed and issuance of a new lease.
3. Acceptance of a lease quitclaim deed is not a project as defined by the California Environmental Quality Act (CEQA) because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

4. Staff recommends that the Commission find that issuance of the lease is exempt from the requirements of the CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

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Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

5. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that issuance of the lease is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially interfere with the Public Trust needs and values at this location at this time, or for the foreseeable term of the lease, is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

1. Authorize acceptance of a lease quitclaim deed, effective September 12, 2016, for Lease No. PRC 8717.1, a General Lease – Agricultural and Protective Structure Use, issued to John Fitch Wilcox, IV and Richard Elwood Wilcox.
2. Authorize issuance of Lease No. PRC 8717.1, a General Lease – Agricultural and Protective Structure Use to the Applicant beginning

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September 13, 2016, for a term of 10 years, for the use of land for the storage of agricultural equipment and the use and maintenance of existing bank protection, as described in Exhibit A, Land Description, and as shown on Exhibit B, Site and Location Map (for reference purposes only), attached and by this reference made a part hereof; consideration for the use of land for the storage of agricultural equipment: \$693 per year, with an annual Consumer Price Index adjustment; consideration for the bank protection: the public use and benefit, with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interests; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 8717.1

LAND DESCRIPTION

A parcel of tide and submerged land on the left bank of the Sacramento River, situated in Sacramento County, State of California, and more particularly described as follows:

Exhibit "C" Parcel 1 described in California State Lands Commission Boundary Line Agreement 194, filed in the Official Records of said County and State on January 19, 1983, in Book 83-10-19 Page 713 which contains 1.565 acres more or less.

TOGETHER WITH that land lying immediately beneath any bank protection lying adjacent to said parcel.

END OF DESCRIPTION

Prepared March 28, 2017 by the California State Lands Commission Boundary Unit



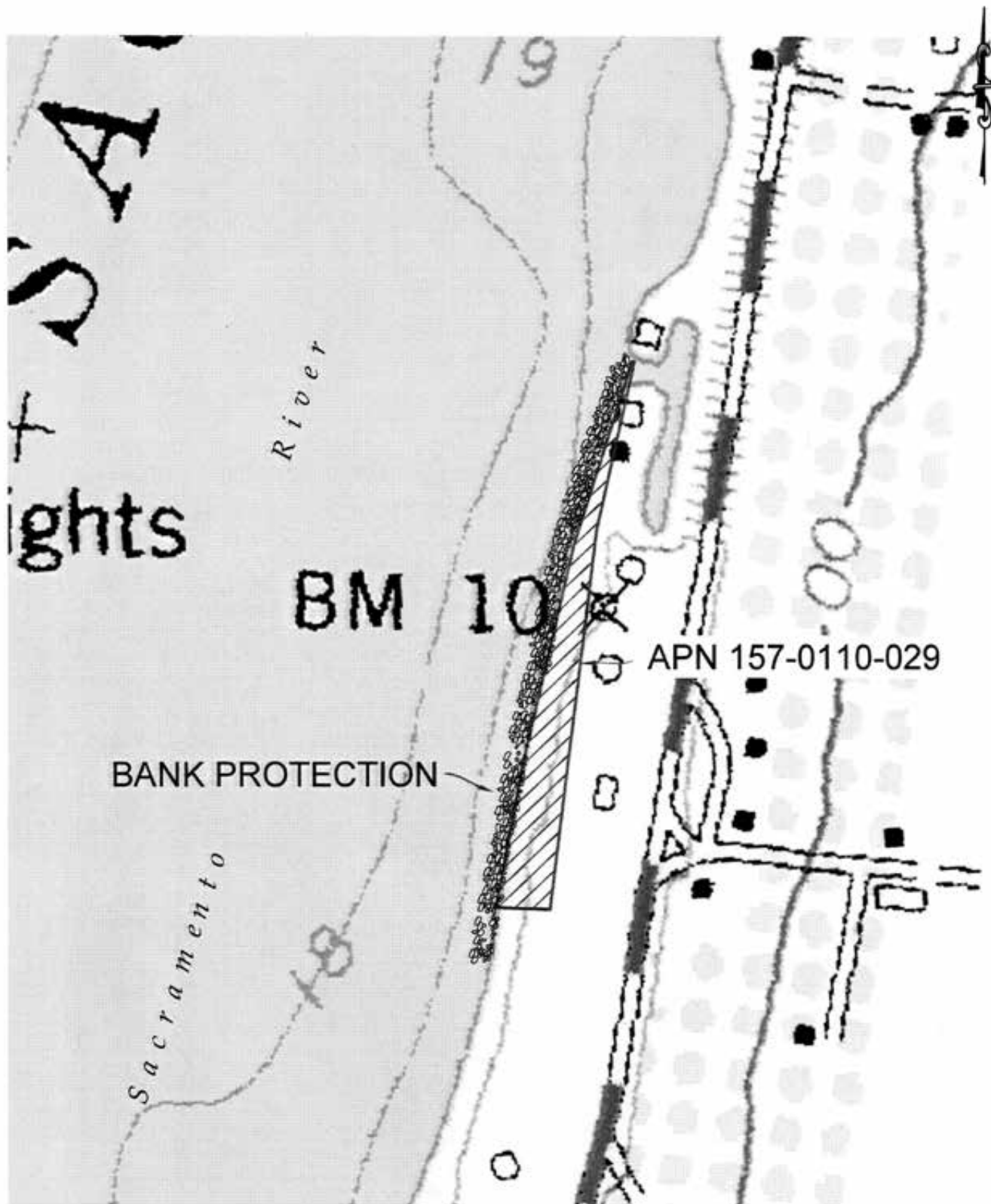


EXHIBIT A

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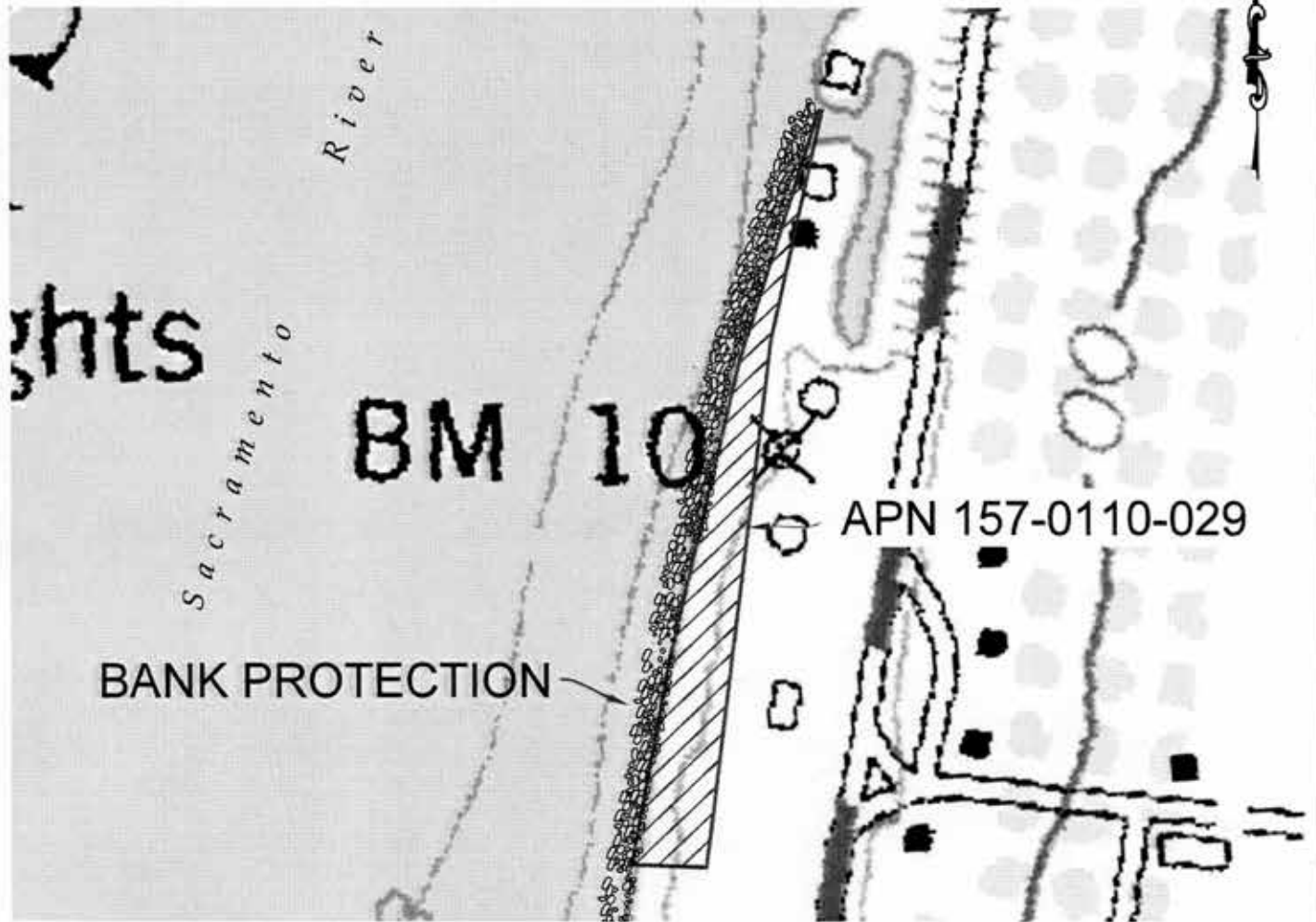
LAND DESCRIPTION PLAT
 PRC 8717.1, RUPORT FAMILY TRUST
 SACRAMENTO COUNTY

CALIFORNIA STATE
 LANDS COMMISSION



NO SCALE

SITE



SOVEREIGN LAND LOCATED NEAR ISLETON THE LEFT BANK
OF THE SACRAMENTO RIVER

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 8717.1
RUPORT FAMILY TRUST
APN 157-0110-029
GENERAL LEASE -
AGRICULTURAL &
PROTECTIVE STRUCTURE USE
SACRAMENTO COUNTY



MJJ 03/25/2017

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.